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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC. CONSUMER
PRIVACY USER PROFILE LITIGATION

This document relates to:

ALL ACTIONS

MDL No. 2843
Case No. 18-md-02843-VC-JSC

**DECLARATION OF LESLEY E.
WEAVER IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
FACEBOOK'S EMERGENCY
ADMINISTRATIVE MOTION TO
REMOVE FROM THE PUBLIC
DOCKET AND SEAL CONFIDENTIAL
MATERIALS**

Judges: Hon. Vince Chhabria
Hon. Jacqueline Scott Corley
Courtroom: VIA VIDEO CONFERENCE
Hearing Date: TBD
Hearing Time: TBD

WEAVER DECL. ISO PLS. RESPONSE
TO FACEBOOK'S EMERGENCY MOTION
TO REMOVE FROM THE PUBLIC
DOCKET AND SEAL CONFIDENTIAL
MATERIALS

MDL No. 2843
CASE NO. 18-MD-02843-VC-JSC

I, Lesley E. Weaver, declare and state as follows:

1. I am an attorney licensed in the State of California and admitted to the United States District Court for the Northern District of California. I am the Partner-in-Charge of the California Office of Bleichmar Fonti & Auld LLP (“BFA”), Co-Lead Counsel for Plaintiffs in *In re Facebook, Inc. Consumer Privacy User Profile Litigation*, Case No. 18-md-02843-VC-JSC (the “MDL”), and a member in good standing of the bar of the State of California and of this Court.

2. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently to them. This declaration is made in support of Plaintiffs’ Response to Facebook’s Emergency Administrative Motion to Remove From the Public Docket and Seal Confidential Materials (“Brief”).

3. On November 6, 2019, NBC News published a large collection of documents relating to Facebook and its litigation with an app developer called Six4Three. Olivia Solon and Cyrus Farivar, *Leaked documents show Facebook leveraged user data to fight rivals and help friends* (Nov. 6, 2019, 7:14 AM PS) NBC News, <https://www.nbcnews.com/news/all/leaked-documents-show-facebook-leveraged-user-data-fight-rivals-help-n1076986>; <https://dataviz.nbcnews.com/projects/20191104-facebook-leaked-documents/assets/facebook-sealed-exhibits.pdf> at 716-720. Counsel in my firm downloaded these documents from the NBC website, including Exhibit C to the Brief, on November 19, 2020.

4. Numerous articles have been written about Facebook’s litigation with this app developer and how documents produced in that case were provided to the U.K.’s Department for Digital, Culture, Media & Sport (“DCMS”). *See., e.g.*,

<https://www.theguardian.com/technology/2018/nov/24/mps-seize-cache-facebook-internal-papers>.

5. As of the date of this filing, October 5, 2020, Ex. C can be accessed on the following additional websites: Sebastian Klovig Skelton, *Lawmakers study leaked Facebook documents made public today* (Nov. 6, 2019) Computer Weekly, <https://www.computerweekly.com/news/252473540/Lawmakers-study-leaked-Facebook-documents-made-public-today>; https://media.bitpipe.com/io_14x/io_147232/item_1922872/Declaration-by-David-Godkin-producing-212-Sealed-Exhibits-16-May-2018.pdf; Github, <https://github.com/BuxtonTheRed/btrmisc/blob/master/docs%20used%20for%20Computer%20Weekly%201st%20article/business%20model/Exhibit%2036%20-%20Sam%20Lessin%20and%20Mike%20Vernal%20began%20to%20flesh%20out%20the%20details%20of%20business%20model.pdf>; and are linked thorough the website of investigative journalist Duncan Campbell at <https://www.duncancampbell.org/facebookleaks>.

6. Facebook itself has publicly addressed the substance of the documents.

<https://about.fb.com/news/2018/12/response-to-six-three-documents/>.

7. Plaintiffs' first publicly-filed consolidated complaint—filed in 2019—cites some of those documents referenced in these articles. First Amended Consolidated Complaint at ¶¶ 497, 510, 566, 744, 749. Facebook has not objected to the references to those documents or attempted to seal them.

8. On April 3, 2020, months after the documents referenced in paragraph 3, including Exhibit C to the Brief, were made public by NBC and others, Facebook produced some documents identical to those on the websites in this action. Facebook labeled those documents

“confidential” pursuant to the Protective Order in this action. Plaintiffs do not agree that the documents are confidential to the extent they are in the public domain. For purposes of the Brief, however, Plaintiffs relied on the publicly available document to source Exhibit C, not the identical version later-produced in this action and labeled “confidential” by Facebook.

9. At 2:27 p.m. on October 2, 2020, four days after Plaintiffs filed their Brief, Facebook informed Plaintiffs it would file its Emergency Motion. Counsel for Facebook did not confer with Plaintiffs’ counsel that it intended to file any motion, let alone an emergency motion, to challenge Plaintiffs’ redactions or public filing of Exhibit C prior to sending the email. The email did not ask to meet and confer, but merely informed Plaintiffs’ counsel it was filing an emergency motion shortly.

10. Counsel for Facebook and Plaintiffs met by Zoom to meet and confer about discovery matters on Tuesday, September 29 and Thursday, October 1, 2020, setting aside four hours for those conferences. Facebook failed to raise any concerns about confidentiality of Ex. C, or that Facebook would file an emergency or administrative motion relating to Ex. C or the Brief. Facebook did not attempt to discuss any of its newly proposed redactions with Plaintiffs at any time.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct and to the best of my knowledge. This declaration was executed in Empire, Michigan.

Date: October 5, 2020

By: Lesley E. Weaver
Lesley E. Weaver

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